

Attorney Docket No.: DEX-0203
Inventors: Chen et al.
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1-25 have been subjected to a Restriction Requirement as follows:

Groups 1-12, claims 1-6 and 9, drawn to a polynucleotide, oligonucleotide, vector, host cells and a method of making a protein, classified in class 536, subclass 23.1; each sequence is suggested to be a different invention;

Groups 13-24, claims 7, 9 and 23, drawn to a polypeptide, classified in class 530, subclass 350; each polypeptide encoded by each SEQ ID NO: of group 1-12 is suggested to be a different invention;

Groups 25-36, claim 8 drawn to an antibody, classified in class 530, subclass 387.1; each antibody specific to each polypeptide of groups 13-24 is suggested to be a different invention;

Groups 37-48, claims 10-14, drawn to a method of diagnosing the presence and metastases of lung cancer and staging and monitoring lung cancer by determining the level of each of the polypeptides in groups 13-24 above, classified in class 435, subclass 7.1;

Groups 49-60, claim 15, drawn to a method of identifying potential therapeutic agents for imaging and treating lung cancer by screening molecules capable of binding a polypeptide of groups 13-24 above, classified in class 424, subclasses 9.341 and 134.1;

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Groups 61-72, claims 16-17, drawn to a method of imaging lung cancer using an antibody of groups 25-36 above, classified in class 424, subclass 9.341;

Groups 73-84, claims 18-19, drawn to a method of treating lung cancer with an antibody of Groups 25-26 above, classified in class 424, subclass 178.1;

Groups 85-96, claims 20 and 22, drawn to a method of identifying a compound which antagonizes a LSG polypeptide of Groups 13-24, classified in class 424, subclass 184.1;

Groups 97-108, claims 20 and 21, drawn to a method of identifying a compound which agonizes a LSG polypeptide of Groups 13-24, classified in class 424, subclass 184.1;

Groups 109-110, claim 24, drawn to a method of inducing an immune response against a polypeptide of Groups 13-24, classified in class 514, subclass 2; and

Groups 111-122, claim 25, drawn to a method of treating lung cancer with a vaccine comprising each of protein in Groups 13-24, above, classified in class 424, subclass 185.1.

The Examiner suggests that the inventions of Groups 1-122 are distinct as being structurally and functionally different molecules with different biological properties and/or capable of use in materially different processes.

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Applicants respectfully traverse this Restriction Requirement.

MPEP § 803 sets forth two criteria which must be met for a restriction requirement to be proper. The first is that the inventions be independent or distinct. The second is that there would be a serious burden on the Examiner if the restriction is not required. A search of prior art relating to a nucleotide of Groups 1-12 or a polypeptide of Groups 13-24 would also reveal any references teaching uses for this sequence. Accordingly, searching of all the claims, at least when limited to an elected sequence, should not place an undue burden on the Examiner. Thus, Applicants believe that this Restriction Requirement does not meet both criteria as set forth in MPEP § 803 to be proper.

Further, with respect to restriction to a single sequence, it is respectfully pointed out that these sequences share the common property of being indicative of lung cancer. Thus, reconsideration is respectfully requested for inclusion of at least 10 sequences as this constitutes a reasonable number for examination purposes in accordance with MPEP §803.04.

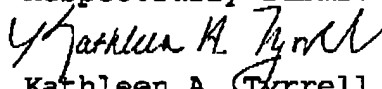
Reconsideration and withdrawal of this Restriction Requirement and sequence election requirement is therefore respectfully requested.

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However, in an earnest effort to be completely responsive to this Restriction Requirement, Applicants elect to prosecute Group 12, SEQ ID NO:12, with traverse.

Applicants believe that the foregoing comprises a full and complete response to the Office Action of record.

Respectfully submitted,


Kathleen A. Tyrrell
Reg. No. 38,350

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LICATA & TYRRELL P.C.
66 E. Main Street
Marlton, New Jersey 08053
(856) 810-1515